

UNITED STATES DISTRICT COURT

United States District Court
Southern District of Texas
FILEDfor the
Southern District of Texas

FEB 27 2015

David J. Bradley, Clerk

United States of America
v.
Francisco De La Cruz-Trevino
YOB: 1985Case No. M-15-0310-MDefendant

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

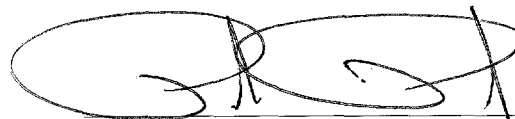
On or about the date of 02/26/2015 in the county of Hidalgo in the Southern District of Texas, the defendant violated TITLE 18 U. S. C. § Section 922(g)(5)(a) & 922(g)(5)(b), an offense described as follows:

Title 18 U.S.C. Section 922(g)(5)(a) It shall be unlawful for any person who is illegally or unlawfully in the United States to receive or possess a firearm.

Title 18 U.S.C. Section 922(g)(5)(b) It shall be unlawful for any person who has been admitted into the United States under non immigrant visa to possess a firearm.

This criminal complaint is based on these facts:

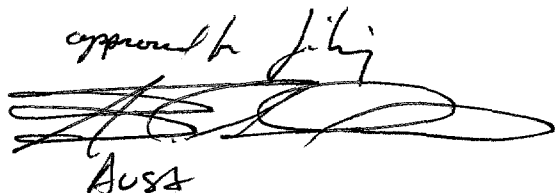
SEE ATTACHMENT A

☒ Continued on the attached sheet.

Complainant's signature

Paul A. Pascoli, ATF Special Agent

Printed name and title

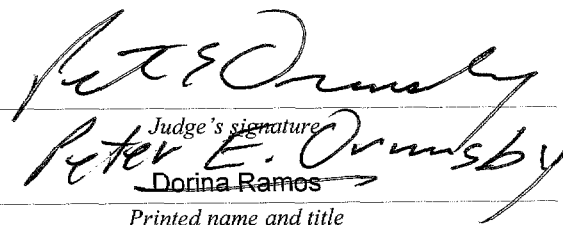

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Sworn to before me and signed in my presence.

Date:

February 27, 2015

City and state:

McAllen, Texas
Judge's signature
Peter E. Ormsby
Dorina Ramos
Printed name and title

ATTACHMENT A

I, Paul A. Pascoli, being duly sworn, do hereby state that I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), a Division of the United States Justice Department, and have been so employed since 2014. I possess a Bachelors of Arts in History from West Virginia University and a Masters in Secondary Education from West Virginia University. I am a graduate from the Federal Law Enforcement Training Center and the ATF National Academy. As a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives, I am vested with the authority to investigate violations of Federal laws, including Titles 18 and 26, United States Code.

(a.) This affidavit is in support of a criminal complaint charging Francisco De la Cruz-Trevino, hereinafter referred to as "DE LA CRUZ" with the criminal violation set forth in Attachment A. The evidence available to me demonstrates that there is probable cause to believe that DE LA CRUZ has violated Title 18 U.S.C 922(g)(5)(A) & Title 18 U.S.C. 922(g)(5)(b) which provide as follows:

18 U.S.C 922(g)(5)(a) It shall be unlawful for any person who is illegally or unlawfully in the United States to receive or possess a firearm.

18 U.S.C. 922(g)(5)(b) It shall be unlawful for any person who has been admitted into the United States under non immigrant visa to possess a firearm.

Further, the Affiant states as follows:

1. On February 26, 2015, Hidalgo County High Intensity Drug Trafficking Area (HIDTA) conducted a search warrant at 9773 Palmas del Norte Lane Mission, TX. Your affiant spoke with Investigator Rodrigo Sampayo who stated that during the execution of the search warrant a Glock, Model 19, 9mm caliber, pistol, Serial Number AAFN399 was located in the bedroom closet of DE LA CRUZ. Investigator Sampayo stated that DE LA CRUZ told him that his wife purchased the firearm with the intent to use it as protection for the residence and his children.
2. On February 26, 2015, your affiant interviewed DE LA CRUZ post Miranda at the McAllen, TX United States Border Patrol Station. During the interview DE LA CRUZ stated to your affiant that his wife purchased the Glock pistol, on his behalf, knowing that he was unable to legally purchase a firearm due to his lack of status to be in the United States. DE LA CRUZ also stated that the Glock pistol was purchased for the protection of his house and that he had taken the pistol out of the box in order to clean the pistol.
3. DE LA CRUZ was arrested in December 2014 for DUI. During this time he was processed by Homeland Security Investigation (HSI). DE LA CRUZ stated that he was released after showing a marriage certificate and explaining to agents he was in the process of attempting status to be in the country.

ATTACHMENT A

4. Your affiant then spoke with HSI Special Agent Ernesto Gomez, who stated that DE LA CRUZ was released on a "deferred action". Based upon the deferred action, DE LA CRUZ still does not have status in the United States and therefore cannot legally possess a firearm.
5. Your affiant consulted with ATF Special Agent Patrick Briody who is trained in determining interstate nexus of firearms. Agent Briody researched the above-listed firearm and determined that this firearm was not manufactured in the State of Texas and therefore affected interstate commerce when it arrived in the State of Texas.